

REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated May 9, 2002. Reconsideration and further examination of the claims 1 and 3-10 is respectfully requested.

CLAIM REJECTION – 35 U.S.C. §102

Claims 1, 3-6, and 10 are rejected under 35 U.S.C. § 102 as being anticipated by DE 3140831. Claims 1 and 7-10 are rejected under 35 U.S.C. § 102 as being anticipated by Cody (U.S. Pat. No. 6,063,401). Applicant has amended claim 1 to disclose a homeopathic preparation of *Plantago major* and an effective amount of an additive for diminishing the odor characteristics of tobacco, neither of which are shown by the references cited. It is respectfully submitted that these rejections are moot in light of the present amendment to claim 1 and dependent claims 3-10.

CLAIM REJECTION – 35 U.S.C. § 103

Claims 1-2, 7-8 and 10 are rejected under 35 U.S.C. § 103 as obvious over Whitson-Fischman (U.S. Pat. No. 5,162,037) in view of Cody (U.S. Pat. No. 5,716,635). Claim 2 has been canceled. It is respectfully submitted that amended claims 1 and 3-10 are not obvious over Whitson-Fishman in view of Cody for the reasons set forth below.

The examiner's rejection relies upon Whitson-Fischman for disclosing a base ingredient, a homeopathic mixture of an herb and an extract of citrus seed as the neutralizing agent. As stated by the Examiner "Whitman-Fischman discloses a

composition for the treatment of chemical dependencies in the form of a lollipop (corresponding to the claimed “base ingredient”/“solid form”), upon which a homeopathic mixture of an herb and extract of citrus seed (corresponding to the claimed “additive for diminishing the odor characteristics of tobacco”/ “neutralizing agent”/ “citrus extract”). Applicant respectfully disagrees and notes that the use of citrus seed by Whitman-Fischman is as part of a homeopathic pharmaceutical formulation intended to bring about a therapeutic effect not as an additive for diminishing the odor characteristics of tobacco. In fact, homeopathic amounts of citrus seed would not be sufficient to reduce the odor characteristics of tobacco. As stated by the applicant on page 6, lines 5-9, [a] homeopathic remedy may be diluted and rediluted several hundred times. This method of preparing a remedy is called potentization, whereby a remedy is continually diluted to the point of final dilutions which may be 1 part in 1 million.” Such amounts of citrus seed extract would have no effect in diminishing the odor characteristics of tobacco.

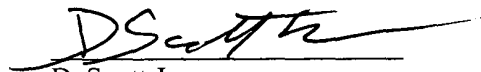
Further, Whitson-Fischman discloses various compositions and methods of treating addictive dependencies using herbal mixtures. However, it fails to teach any combination of an effective amount of an agent for diminishing the odor characteristics of tobacco in combination with a homeopathic treatment as disclosed and claimed in the present application. The extremely dilute amount of citrus seed extract shown by Whitson-Fischman would not be in an amount effective for diminishing the odor characteristics of tobacco. Therefore, it is respectfully submitted that amended claims 1 and 3-10 are not obvious over Whitson-Fishman in view of
Cody

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our deposit account number 50-0578 and please credit any excess fees to such Deposit Account.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

Respectfully submitted,
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claims 2 has been canceled.

Claim 1 has been amended as follows:

1. (Amended) An orally administered composition for reducing tobacco consumption, comprising:

a base ingredient;

a homeopathic preparation ~~predetermined amount of~~ Plantago major; and

an effective ~~predetermined amount of~~ an additive for diminishing the odor characteristics of tobacco.